

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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Brenda Calloway Colvin,

Civ. No. 19-2479 (ECT/BRT)

Plaintiff,

v.

Keith Ellison, Rebecca Lucero, Jodi  
Harpstead, John Harrington, Staci Brean,  
Unnamed Adjoiner (the Director of  
Hennepin County Child Protection  
Services), Commissioner of the  
Minnesota Department of Education, and  
Melissa Jacobsen,

**REPORT AND  
RECOMMENDATION**

Defendants.

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In an Order dated October 16, 2019, this Court directed Plaintiff Brenda Colvin to file an Amended Complaint. (*See* Doc. No. 5.) Ms. Colvin was given 30 days to file an Amended Complaint, failing which it would be recommended that this action be dismissed without prejudice for failure to prosecute. *See* Fed. R. Civ. P. 41(b).

That deadline has now passed, and Ms. Colvin has not amended her Complaint. In fact, Ms. Colvin has not communicated with the Court about this case at all since commencing this action. Accordingly, this Court now recommends, in accordance with its prior Order, that this action be dismissed without prejudice under Rule 41(b) for failure to prosecute. *See Henderson v. Renaissance Grand Hotel*, 267 Fed. App'x 496, 497 (8th Cir. 2008) (per curiam) (“A district court has discretion to dismiss an action

under Rule 41(b) for a plaintiff's failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order.").

### **RECOMMENDATION**

Based upon the foregoing, and on all of the files, records, and proceedings herein, **IT IS HEREBY RECOMMENDED** that this action be **DISMISSED WITHOUT PREJUDICE** under Fed. R. Civ. P. 41(b) for failure to prosecute. Additionally, the Court recommends that Ms. Colvin's application to proceed in forma pauperis (Doc. No. 2) be **DENIED** as moot considering the dismissal recommendation.

Dated: December 12, 2019

s/ Becky R. Thorson

BECKY R. THORSON

United States Magistrate Judge

### **NOTICE**

**Filing Objections:** This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), "a party may file and serve specific written objections to a magistrate judge's proposed finding and recommendations within 14 days after being served a copy" of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. *See* Local Rule 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in Local Rule 72.2(c).